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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,035	11/02/2000	Haruo Oba	112857-265	6839

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EXAMINER

HARVEY, MINSUN OH

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 09/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/705,035

Applicant(s)
OBA et al

Examiner
MINSUN HARVEY

Art Unit
2644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-12 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 9 6) ☐ Other:

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 to 4 and 10 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gersheneld.

Gersheneld discloses a portable listening apparatus which is comprised of means for generating a modulated signal modulated in a band in which a signal is transferred by using a human body (16, 29 and 50) ; a first electrode for outputting the generated audio modulated signal (18 and 20); a second electrode for receiving a modulated signal transferred through the first electrode and a human body (24 and 26); means for demodulating the modulated signal received by the second electrode (52); means for generating sound according to the demodulated signal (output of 52); and means for storing individual authentication data (col. 6, lines 44 to 49). Gersheneld does not disclose that the system is explicitly for audio listening apparatus. However, since Gersheneld has disclosed that the system relates generally to the use of small currents externally induced in people by electrostatic field coupling, and more particularly, to systems (such as pagers, telephones, computer terminals, and set forth) that can be used for wireless communication among proximate devices (col. 1, lines 9 to 26), it would have been obvious to use Gersheneld's system for audio listening apparatus as claimed because audio listening apparatus is well known portable device for transmitting signals to its user.

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Gersheneld does not disclose the second electrode is attached to the audible sound generating means and configured to fit around the user's at least one ear to direct the audible sound into the user's at least one ear.

Boling discloses an audible sound generating means and configured to fit around an user's one ear (8). Since Boling has discloses using an audible sound generating means as claimed and using the personal audio device as a telephone (col. 7, lines 13 to 23), it would have been obvious to combine Boling's teaching with Gersheneld because Gersheneld has disclosed that the system relates generally to the use of small currents externally induced in people by electrostatic field coupling, and more particularly, to systems such as telephones. In view of this, it would have been obvious to combine Boling's telephone with Gersheneld's teaching for using a small current externally induced in people by electrostatic field coupling in a telephone.

3. Claims 5 to 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gersheneld in view of Boling and further in view of Nakagawa.

Gersheneld as modified do not disclose that the transmission further comprises playback means for playing back an audio signal to be modulated and control means for controlling the playback means and recording means for recording an audio signal in a predetermined form.

Nakagawa discloses an audio listening apparatus which is comprised of playback means for playing back an audio signal; control means for controlling the playback means and recording means for recording an audio signal in a predetermined form (col. 2, lines 25 to 53). Since Nakagawa has disclosed an audio listening apparatus with playback means, control means and

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recording means, it would have been obvious to combine Nakagawa's teaching with Gersheneld as modified because it would have been obvious for one in the skilled in the art to substitute Nakagawa's audio device with teachings of Gersheneld as modified to have an audio reproducing apparatus with playback means, control means and means for recording as claimed.

4. Applicant's arguments with respect to claims 1 to 8 and 10 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communication from the examiner should be directed to **Minsun Oh Harvey** whose telephone number is **(703) 308-6741**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Bill Isen**, can be reached at **(703) 305-4386**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

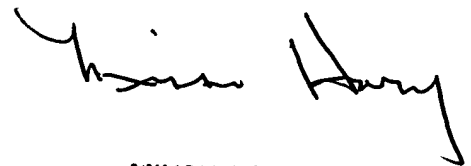
Washington, D.C. 20231

Or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist)

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



**MINSUN OH HARVEY
PRIMARY EXAMINER**